

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 27 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ILENE MARIE WAHPETA,

Defendant-Appellant.

No. 18-10386

D.C. No.
2:17-cr-00041-GMS-3
District of Arizona,
Phoenix

ORDER

Before: CANBY, GRABER, and McKEOWN, Circuit Judges.

We have reviewed the responses to the court's October 10, 2018 and November 5, 2018 orders, and we dismiss this appeal as untimely. *See* Fed. R. App. P. 4; *United States v. Sadler*, 480 F.3d 932 (9th Cir. 2007).

We note that appellant indicates in the response to the court's orders that she "was not advised by [her] legal counsel . . . of [her] rights to file an appeal" and "did not have the ability to meet with [her] legal counsel to review the discovery submitted . . . for [her] case." To the extent appellant argues that she received ineffective assistance of counsel in the underlying criminal proceedings, such claims "are generally inappropriate on direct appeal." *See United States v. Ross*, 206 F.3d 896, 900 (9th Cir. 2000). This dismissal does not foreclose appellant from filing a motion under 28 U.S.C. § 2255 in the district court based on a claim

of ineffective assistance of counsel. *See id.* (noting that claims of ineffective assistance of counsel “normally should be raised in habeas corpus proceedings”).

DISMISSED.